

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

v. :

NICHOLAS ALVAREZ, :

Defendant. :

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>4/22/24</u>

ORDER

11 CR 169 (VB)

Copies Mailey/Faxed
Chambers of Vincent L. Briccetti
4/22/24 DH

In a motion dated April 14, 2024 (Doc. #179), defendant Nicholas Alvarez seeks a reduction of his term of imprisonment pursuant to Amendment 821 to the United States Sentencing Guidelines.

The motion is DENIED because Alvarez is not eligible for a reduction of his term of imprisonment under Amendment 821.

In Amendment 821, the United States Sentencing Commission amended the Guidelines in two respects. Part A amended Section 4A1.1 by eliminating the 2 criminal history "status points" a defendant receives for committing the offense while under a criminal justice sentence, so long as the defendant otherwise has less than 7 criminal history points. Part B created a new Section 4C1.1, which provides for a two-level decrease in offense level for defendants with zero criminal history points who meet specified eligibility criteria.

Alvarez does not qualify under Part A because he did not commit the instant offense while under a criminal justice sentence; i.e., he did not receive any status points. Alvarez does not qualify under Part B because he did not have zero criminal history points; indeed, he had 4.

Accordingly, Alvarez is not eligible for a reduction of his term of imprisonment pursuant to Amendment 821.

Chambers will mail a copy of this Order to Alvarez at the following address:

Nicholas Alvarez, Reg. No. 64636-054
FCI Petersburg Medium
Federal Correctional Institution
P.O. Box 1000
Petersburg, VA 23804

Dated: April 22, 2024
White Plains, NY

SO ORDERED:

Vincent L. Briccetti
United States District Judge